



# NEWS

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## **SUMMARY OF CASES ACCEPTED DURING THE WEEK OF MARCH 17, 2003**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-34 Campbell v. Regents of University of California, S113275. (A097560; unpublished opinion; San Francisco County Superior Court; 312736.) Petition for review after the Court of Appeal affirmed the judgment dismissing a civil action. This case presents the following issue: Must a plaintiff exhaust an internal administrative remedy provided by a public employer before filing an action under the False Claims Act (Gov. Code, § 12653), or for violation of Labor Code section 1102.5, which bars an employer from retaliating “against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or violation or noncompliance with a state or federal regulation?” A related issue is before the court in Schifando v. City of Los Angeles, S106660 (#02-115).

#03-35 People v. Majors, S113086. (D037968; unpublished opinion; San Diego County Superior Court; SCD156302.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Is asportation “by force or fear,” as required for a conviction of kidnapping, established when the defendant impersonates a security guard and the victim, fearing penal consequences for failing to cooperate but not fearing bodily

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harm, enters the defendant's car at his request and is transported to another location, or do such circumstances instead simply establish asportation "by fraud?"

#03-36 Tipton-Whittingham v. City of Los Angeles, S112943. (9th Cir. Nos. 01-56991, 01-57016; 316 F.3d 1058; Central District of California; CV 94-03240-TJH.) Request under California Rules of Court, rule 29.8, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: "(1) Under California law, may attorneys' fees as provided for in California Code of Civil Procedure § 1021.5 and the California Fair Employment and Housing Act § 12965(b) be awarded where the plaintiff has been the "catalyst" in bringing about the relief sought by the litigation? (2) If the catalyst theory is viable under California law, will that theory support an award of attorneys' fees where the plaintiff "activates" the defendant to modify his behavior? See Maria P. v. Riles, 43 Cal.3d 1281, 1291-92 (1987)(citations omitted). Or, does California law require a judicially recognized change in the legal relationship between the parties, such as a judgment on the merits, a consent decree, or a judicially-ordered settlement?" A related issue is before the court in Graham v. DaimlerChrysler Corp., S112862 (#03-26).

#03-37 People v. Hilger, S113526. (B156790; 105 Cal.App.4th 202; Los Angeles County Superior Court; GA036392.) Petition for review after the Court of Appeal reversed a judgment entered on revocation of probation in a criminal action. The court ordered briefing deferred pending decision in People v. Arnold, S106444 (#02-92), and People v. Jeffrey, S105978 (#02-93), which present the following issue: Does a defendant's waiver of Penal Code section 2900.5 custody credits at the time probation is imposed apply to a future term of imprisonment in the event probation is revoked?

#03-38 People v. Lewis, S112635. (B152939; unpublished opinion; Los Angeles County Superior Court; KA051229.) Petition for review after the Court of Appeal remanded in part and otherwise affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in People v. Mosby, S104862 (#02-73), which presents the following issue: Was the trial court's failure to expressly advise defendant of his constitutional rights and to obtain a waiver of those rights before accepting his admission to a prior conviction allegation reversible error?